

## Transfer of Wind Energy Tax Revenue from School District General Fund

*Synopsis: HB1066 was signed by the Governor on March 3, 2021. This bill amended the definition of wind energy tax revenue, SDCL 13-13-10.1(15) and amended SDCL 13-16-26.2 to allow the transfer of wind energy tax revenue from the General Fund to the Capital Outlay Fund under certain circumstances. The effective date of the above stated revisions is July 1, 2021.*

### SDCL 13-13-10.1(15) Definition of Wind Energy Tax Revenue

*"Wind energy tax revenue," any wind energy tax revenue apportioned to school districts pursuant to § 10-35-21 from a wind farm producing power for the first time before July 1, 2016, shall be considered local effort pursuant to subdivision (13) and other revenue base amount pursuant to subdivision (14). However, any wind energy tax revenue apportioned to a school district from a wind farm producing power for the first time after June 30, 2016, one hundred percent shall be retained by the school district to which the tax revenue is apportioned for the first five years of producing power, eighty percent for the sixth year, sixty percent for the seventh year, forty percent for the eighth year, twenty percent for the ninth year, and zero percent thereafter. If a wind farm begins producing power for the first time between October first and December thirty-first in a calendar year, any revenues generated for that time period must be retained by the school district and that time period may not be counted against the first five-year period;*

The underlined sections were added to the previous language of the statute.

### SDCL 13-16-26.2 Transfers from General Fund

House Bill 1066 also amended § 13-16-26.2 to remove the prohibition of transfer of general fund revenue to capital outlay fund as outlined below.

*Notwithstanding § 13-16-26, no school district may transfer any funds, exclusive of federal funds and wind energy tax revenue that is defined in § 13-13-10.1 and apportioned pursuant to § 10-35-21, from the general fund to the capital outlay fund, bond redemption fund or the capital projects fund.*

*The authority provided by this section for the transfer of wind energy tax revenue is conditioned annually upon the district obtaining, from the Department of Education, verification that the average compensation of teachers in the district, as based on the most recently approved financial report, exceeds the average compensation rate for the 2017 fiscal year.*

*The transfer of wind energy tax revenue must be made within the ten-year timeframe identified in subdivision 13-13-10.1(15) for each new wind farm. The maximum amount a school district may transfer on an annual basis is the amount of wind energy tax revenue that is able to be retained by the district and not counted as local effort.*

*Notwithstanding § 13-16-6, wind energy tax revenue transferred to the capital outlay fund under the authority of this section must remain separately identified and may not thereafter be returned to the general fund.*

### **Timeline of Payment of Wind Energy Tax Revenue**

The Department of Revenue & Regulation (DRR) will provide the Department of Education (DOE) a listing of all wind farm revenue payment amounts by school district, by wind farm in late March or early April. This spreadsheet will provide the total amount of wind energy tax revenue for the district and the breakdown of an amount per each farm and when they began operation.

DOE will share this information with applicable districts and include what amounts will be equalized and what amounts are to be considered “outside” the funding formula for the allowable 10 year period outlined in § 13-13-10.1(15) and therefore eligible to be transferred to the Capital Outlay fund of the school district.

### **Allowable Transfers per Fiscal Year**

Beginning in FY2022 a school district may transfer an amount, not to exceed, the total payment received in the fiscal year. A school district may not transfer any wind farm energy tax revenues received in previous years.

Any wind energy tax revenue not expended in that fiscal year should remain separately identified. Use of general ledger sub-account may be used when accumulating wind energy tax revenue in the Capital Outlay fund, example 21, 723, 001.

### **Wind Farms Operable After June 30, 2016**

If a school district is receiving wind energy tax revenue from a wind farm operating before June 30, 2016 the annual payments are equalized and included in the calculation of Other Local Effort – Other Revenues.

Any revenues received from wind farms beginning operation after June 30, 2016, the revenues received are not included in Other Local Effort – Other Revenues for a period of ten years. The first five years 100% is retained by the school district and the next 5 years the revenues paid will be apportioned as outlined in §13-13-10.1(15). Due to the change in the statute based on HB1066 if in year 1 the wind farm begins producing after October 1<sup>st</sup> the revenue generated in that first year will not be counted as year 1 until the following fiscal year, therefore allowing the school district to have 6 years to retain 100% of revenues received and another 5 years in which it is apportioned as prescribed in statute.

### **Use of Wind Energy Tax Revenue in Funding Formula**

It is important to understand that the amount of wind energy tax revenue received by a school district when included as local effort is based on amount eligible to be included two years prior to the funding year. For example:

In FY2022 wind energy tax revenues, if applicable, will be summed with other select revenues to calculate FY2024 general state aid. Wind energy tax revenues received in this fiscal year are eligible to be transferred (for the first time) to the Capital Outlay Fund.

### **For More Information**

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